

Executive Summary – Enforcement Matter – Case No. 45817
Shawn Mark Yarbrough dba Walnut Ridge Estates Water System
RN101195857
Docket No. 2012-2672-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Walnut Ridge Estates Water System, U.S. Highway 147, 3.0 miles northeast of Zavalla, Angelina County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: June 21, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$620

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$105

Total Due to General Revenue: \$515

Payment Plan: 5 payments of \$103 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$74

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 45817
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RN101195857
Docket No. 2012-2672-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 29, 2012

Date(s) of NOE(s): November 16, 2012

Violation Information

1. Failed to comply with the Maximum Contaminant Level ("MCL") of 0.080 milligrams per liter for total trihalomethanes ("TTHM"), based on the running annual average [30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to timely submit the results of quarterly sampling for Stage 1 disinfectant byproduct ("DBP") contaminant levels to the Executive Director ("ED") [30 TEX. ADMIN. CODE § 290.113(e)].
3. Failed to provide the results of quarterly sampling for Stage 1 DBP contaminant levels to the ED [30 TEX. ADMIN. CODE § 290.113(e)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days:
 - i. Ensure that all delinquent drinking water chemical analysis results are reported to the ED or demonstrate that a compliance schedule has been established; and
 - ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the ED within ten days of ED request or of their receipt by the Facility, whichever is later.
- b. Within 45 days, submit written certification demonstrating compliance with Ordering Provisions a.i. and a.ii.;
- c. Within 365 days, return to compliance with the running annual average MCL for TTHM; and
- d. Within 380 days, submit written certification demonstrating compliance with Ordering Provision c.

Executive Summary – Enforcement Matter – Case No. 45817
Shawn Mark Yarbrough dba Walnut Ridge Estates Water System
RN101195857
Docket No. 2012-2672-PWS-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2576; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Shawn Mark Yarbrough, Owner/Operator, Walnut Ridge Estates Water
System, P.O. Box 427, Zavalla, Texas 75980
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	19-Nov-2012	PCW	13-Dec-2012	Screening	13-Dec-2012	EPA Due	31-Dec-2011
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RESPONDENT/FACILITY INFORMATION

Respondent	Shawn Mark Yarbrough dba Walnut Ridge Estates Water System						
Reg. Ent. Ref. No.	RN101195857						
Facility/Site Region	10-Beaumont			Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	45817	No. of Violations	1
Docket No.	2012-2672-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$250

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **30.0%** Enhancement **Subtotals 2, 3, & 7** \$75

Notes Enhancement for one NOV with same/similar violations and one order without a denial of liability.

Culpability No **0.0%** Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$1,023
Approx. Cost of Compliance \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$325

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$325

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$325

DEFERRAL **0.0%** Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$325

Screening Date 13-Dec-2012

Docket No. 2012-2672-PWS-E

PCW

Respondent Shawn Mark Yarbrough dba Walnut Ridge Estates Water System

Policy Revision 2 (September 2002)

Case ID No. 45817

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101195857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same/similar violations and one order without a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Screening Date 13-Dec-2012

Docket No. 2012-2672-PWS-E

PCW

Respondent Shawn Mark Yarbrough dba Walnut Ridge Estates Water System

Policy Revision 2 (September 2002)

Case ID No. 45817

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101195857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.113(f)(4) and Tex. Health & Safety Code § 341.0315(c)

Violation Description Failed to comply with the Maximum Contaminant Level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the running annual average. Specifically, the running annual average concentrations of TTHM for the second and third quarters of 2011 were 0.144 mg/L and 0.155 mg/L, respectively.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes Exceeding the MCL for TTHM caused the persons served by the Facility to be exposed to significant amounts of contaminants which do not exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 1

183 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	X
	single event	

Violation Base Penalty \$250

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,023

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$325

Economic Benefit Worksheet

Respondent Shawn Mark Yarbrough dba Walnut Ridge Estates Water System
Case ID No. 45817
Reg. Ent. Reference No. RN101195857
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	30-Jun-2011	1-Jun-2014	2.92	\$49	\$974	\$1,023
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to implement an alternative method of disinfection, calculated from the last day of the first quarter of non-compliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$1,023



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	19-Nov-2012	Screening	13-Dec-2012	EPA Due	31-Dec-2011
	PCW	13-Dec-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Shawn Mark Yarbrough dba Walnut Ridge Estates Water System		
Reg. Ent. Ref. No.	RN101195857		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	45817	No. of Violations	2
Docket No.	2012-2672-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$170**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **30.0%** Enhancement **Subtotals 2, 3, & 7** **\$51**

Notes: Enhancement for one NOV with same/similar violations and one order without a denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$225
Approx. Cost of Compliance \$1,670
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$221**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$221**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$295**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$295**

Screening Date 13-Dec-2012

Docket No. 2012-2672-PWS-E

PCW

Respondent Shawn Mark Yarbrough dba Walnut Ridge Estates Water System

Policy Revision 3 (September 2011)

Case ID No. 45817

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101195857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 30%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 30%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 30%

Screening Date 13-Dec-2012

Docket No. 2012-2672-PWS-E

PCW

Respondent Shawn Mark Yarbrough dba Walnut Ridge Estates Water System

Policy Revision 3 (September 2011)

Case ID No. 45817

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101195857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.113(e)

Violation Description

Failed to timely submit the results of quarterly sampling for Stage 1 disinfectant byproduct ("DBP") contaminant levels to the Executive Director. Specifically, the Respondent failed to timely submit Stage 1 DBP results for the third and fourth quarters of 2011.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1.0%

Matrix Notes

Less than 30% of the rule requirement was not met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 2

183

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$20

Two single events are recommended (one event for each quarter results were not reported).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$20

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$225

Violation Final Penalty Total \$26

This violation Final Assessed Penalty (adjusted for limits) \$100

Economic Benefit Worksheet

Respondent Shawn Mark Yarbrough dba Walnut Ridge Estates Water System
 Case ID No. 45817
 Reg. Ent. Reference No. RN101195857
 Media Public Water Supply
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$1,570	30-Sep-2011	1-Oct-2013	2.01	\$10	\$210	\$220
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	29-Oct-2012	1-Oct-2013	0.92	\$5	n/a	\$5

Notes for DELAYED costs

The delayed cost includes the estimated amount to pay any outstanding lab fees (\$1,570 for Stage 1 DBP) so that the lab will release all drinking water chemical analysis results. The date required is the last date of the first monitoring period for which results were not provided and the final date is the estimated date of compliance. The other delayed cost includes the estimated amount to implement improvements to the Facility's process, procedures, guidance, training and/or oversight to ensure results are released by the Facility's laboratories and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,670

TOTAL

\$225

Screening Date 13-Dec-2012

Docket No. 2012-2672-PWS-E

PCW

Respondent Shawn Mark Yarbrough dba Walnut Ridge Estates Water System

Policy Revision 3 (September 2011)

Case ID No. 45817

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101195857

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.113(e)

Violation Description

Failed to provide the results of quarterly sampling for Stage 1 DBP contaminant levels to the Executive Director. Specifically, the Respondent failed to provide Stage 1 DBP monitoring results for the first through the third quarters of 2012.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 3

274 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$150

Three quarterly events are recommended, calculated for the quarters in which the results were not reported.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$195

This violation Final Assessed Penalty (adjusted for limits) \$195

Economic Benefit Worksheet

Respondent Shawn Mark Yarbrough dba Walnut Ridge Estates Water System
Case ID No. 45817
Reg. Ent. Reference No. RN101195857
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs for this violation are associated with the Economic Benefit for Violation No. 1 on Revision 3 PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0



Compliance History Report

PUBLISHED Compliance History Report for CN601994122, RN101195857, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN601994122, Shawn Mark Yarbrough **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN101195857, Walnut Ridge Estates Water System **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: UNITED STATES HIGHWAY 147, 3.0 MILES NORTHEAST OF ZAVALLA, ANGELINA COUNTY, TEXAS

TCEQ Region: REGION 10 - BEAUMONT

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
0030006

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: December 12, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: December 12, 2007 to December 12, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Abigail Lindsey **Phone:** (512) 239-2576

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 **Effective Date:** 08/31/2009 **ADMINORDER** 2008-1824-PWS-E (Findings Order-Agreed Order Without Denial)
 Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2007.
 Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the first quarter of 2008.
 Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
 5A THSC Chapter 341, SubChapter A 341.0315(c)
 Description: Violated the maximum contaminant level for trihalomethanes during the second quarter of 2008.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	03/28/2012 (1043243)	CN601994122
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.113(f)(4)	
	Description:	TTHM MCL 3Q2011 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2011.	

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
SHAWN MARK YARBROUGH DBA	§	TEXAS COMMISSION ON
WALNUT RIDGE ESTATES WATER	§	
SYSTEM	§	
RN101195857	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-2672-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Shawn Mark Yarbrough dba Walnut Ridge Estates Water System (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located on United States Highway 147, 3.0 miles northeast of Zavalla, Angelina County, Texas (the "Facility") that has approximately 65 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted on October 29, 2012, TCEQ staff documented that the running annual average concentrations of total trihalomethanes ("TTHM") for the second and third quarters of 2011 were 0.144 milligrams per liter ("mg/L") and 0.155 mg/L, respectively.
3. During a record review conducted on October 29, 2012, TCEQ staff documented that the Respondent did not timely submit Stage 1 disinfectant byproduct ("DBP") monitoring results for the third and fourth quarters of 2011 to the Executive Director.
4. During a record review conducted on October 29, 2012, TCEQ staff documented that the Respondent did not submit Stage 1 DBP monitoring results for the first through the third quarters of 2012 to the Executive Director.
5. The Respondent received notice of the violations on November 21, 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the Maximum Contaminant Level ("MCL") of 0.080 mg/L for TTHM, based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.113(f)(4) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to timely submit the results of quarterly sampling for Stage 1 DBP contaminant levels to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.113(e).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to provide the results of quarterly sampling for Stage 1 DBP contaminant levels to the Executive Director, in violation of 30 TEX. ADMIN. CODE § 290.113(e).
5. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

6. An administrative penalty in the amount of Six Hundred Twenty Dollars (\$620) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Hundred Five Dollars (\$105) of the administrative penalty. The remaining amount of Five Hundred Fifteen Dollars (\$515) of the administrative penalty shall be payable in five monthly payments of One Hundred Three Dollars (\$103) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payment shall be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Six Hundred Twenty Dollars (\$620) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Shawn Mark Yarbrough dba Walnut Ridge Estates Water System, Docket No. 2012-2672-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Ensure that all delinquent drinking water chemical analysis results are reported to the Executive Director or demonstrate that a compliance schedule has been established, in accordance with 30 TEX. ADMIN. CODE § 290.113 (Stage 1 DBP); and

- ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that future drinking water chemical sample results are released by the Facility's laboratories and reported to the Executive Director within ten days of Executive Director request or of their receipt by the Facility, whichever is later, in accordance with 30 TEX. ADMIN. CODE § 290.113 (Stage 1 DBP).
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii.;
- c. Within 365 days of the effective date of this Agreed Order, return to compliance with the running annual average MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.113; and
- d. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

7/3/13
Date

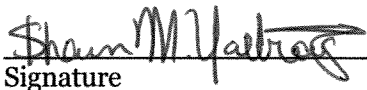
I, the undersigned, have read and understand the attached Agreed Order in the matter of Shawn Mark Yarbrough dba Walnut Ridge Estates Water System. I am authorized to agree to the attached Agreed Order on behalf of Shawn Mark Yarbrough dba Walnut Ridge Estates Water System, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Shawn Mark Yarbrough dba Walnut Ridge Estates Water System waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

4-1-13
Date

Shawn Yarbrough
Name (Printed or typed)
Authorized Representative of
Shawn Mark Yarbrough dba Walnut Ridge Estates Water System

owner/operator
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.